

James Everett Shelton  
316 Covered Bridge Road  
King of Prussia, PA 19406  
(484) 626-3942  
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Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES EVERETT SHELTON

Plaintiff

v.

CAPITAL ADVANCES LLC &  
CARMELA MORELLI

Defendants

No. 2:18-cv-02186

Honorable Timothy J. Savage

**FILED**

JUL - 9 2018

KATE BARKMAN, Clerk

By  Dco. Clerk

**MOTION FOR DEFAULT JUDGMENT PER RULE 55(b)(2) WITH INCORPORATED**  
**MOTION FOR HEARING FOR ASSESSMENT OF DAMAGES:**

Comes now JAMES EVERETT SHELTON, the Plaintiff Pro Se in this action, and hereby requests the Court, pursuant to Rule 55(b)(2), to enter a default judgment against the defendants, CAPITAL ADVANCES LLC and CARMELA MORELLI, and to hold a hearing to assess the exact amount of damages in this case. In support thereof, Plaintiff would show as follows:

1. Plaintiff filed the instant complaint on May 24, 2018.
2. On May 31, 2018, the summons and Plaintiff's complaint were served on defendant Carmela Morelli by personal service as provided by Rule 4(c)(2). See ECF No. 3, proof of service upon defendant Carmela Morelli, attached as Exhibit A.

3. On May 31, 2018, the summons and Plaintiff's complaint were served on defendant Capital Advances LLC, c/o Carmela Morelli, as Registered Agent and person authorized to accept service. See ECF No. 4, proof of service upon Capital Advances LLC, attached as Exhibit B.

4. As further proof of service, the process server, Kameron Marshall, took a picture of the defendants when they were served on May 31, 2018. See Exhibit C.

5. The clerk entered default against defendants Capital Advances LLC and Carmela Morelli on July 2, 2018.

6. Thirty-nine (39) days have elapsed since the defendants in this action were served, and the defendants have failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure.

7. Defendants have not sought additional time within which to respond, and Plaintiff has heard nothing from any of the defendants.

8. Defendant Capital Advances LLC is a Florida limited liability company with its principal place of business in Pompano Beach, Florida.

9. Defendant Carmela Morelli is the owner and Registered Agent of Capital Advances LLC, and she resides in Philadelphia, Pennsylvania. Ms. Morelli purposely and knowingly directed automated calls to be placed to Plaintiff's cell phone for sales purposes, despite the fact that defendants did not have Plaintiff's prior express consent to receive telemarketing calls and the fact that Plaintiff's number is on the National Do-Not-Call Registry. See Exhibit D, an e-mail from the FTC confirming Plaintiff's number was on the Do Not Call Registry since 2015.

10. The claim of the Plaintiff is for the sum of \$22,500 together with the costs of this action. The damages requested are statutory in nature and are summarized as follows:

a. Four calls made using an automatic telephone dialing system (ATDS) in violation of 47 U.S.C. § 227(b)(1)(A), which carries a minimum statutory penalty of \$500 per call pursuant to 47 U.S.C. § 227 (b)(3)(B), which are trebled pursuant to 47 U.S.C. § 227(b)(3).

b. Four “sales calls” and one “sales text message” to a number on the National Do-Not-Call registry in violation of 47 U.S.C. § 227(c)(3)(F), and 47 C.F.R. 64.1200(0)(2), which carries a minimum statutory penalty of \$500 per call pursuant to 47 U.S.C. § 227(c)(5)(B), which are trebled pursuant to 47 U.S.C. § 227(c)(5).

c. Four refusals to put Plaintiff’s number on defendant’s “do not call list” in violation of 47 C.F.R. 64.1200(d)(3), which carries a minimum statutory penalty of \$500 per call pursuant to 47 U.S.C. § 227(c)(5)(B), which is trebled pursuant to 47 U.S.C. 227(c)(5).

d. One refusal to provide Plaintiff a copy of defendant’s “do not call policy” in violation of 47 C.F.R. 64.1200(d)(1), which carries a minimum statutory penalty of \$500 per violation pursuant to 47 U.S.C. § 227(c)(5)(B), which is trebled pursuant to 47 U.S.C. § 227(c)(5).

e. Therefore, Plaintiff seeks **\$22,500** in total, itemized as follows: **\$6,000** for Count (a), **\$7,500** for Count (b), **\$6,000** for Count (c), and **\$1,500** for count (d).

**11.** For the foregoing reasons, Plaintiff respectfully asks the Court to enter a default judgment against the defendants CAPITAL ADVANCES LLC & CARMELA MORELLI, jointly and severally.

**12.** Plaintiff requests the Court hold a hearing to determine the precise amount of damages in this case, and grant Plaintiff a default judgment in the amount the court deems just and appropriate.

Dated: July 9, 2018

/s/ James Everett Shelton  
James Everett Shelton  
316 Covered Bridge Road  
King of Prussia, PA 19406  
(484) 626-3942  
jeshelton595@gmail.com

**CERTIFICATE OF SERVICE**

I, JAMES EVERETT SHELTON, do hereby affirm that on this 9<sup>th</sup> day of July 2018, I served defendants CARMELA MORELLI & CAPITAL ADVANCES LLC each with copies of the foregoing Motion for Default Judgment via first class mail to:

4042 Loring St,  
Philadelphia, PA 19136

Dated: July 9, 2018

/s/ James Everett Shelton  
James Everett Shelton  
316 Covered Bridge Road  
King of Prussia, PA 19406  
(484) 626-3942  
Jeshelton595@gmail.com

**AFFIDAVIT IN SUPPORT OF MOTION FOR DEFAULT JUDGMENT**

I, JAMES EVERETT SHELTON, declare under penalty of perjury that the following facts are true and correct to the best of my knowledge, information, and belief:

1. I am the Plaintiff Pro Se in this action.
2. A Complaint was filed in this case on May 24, 2018.
3. Plaintiff filed the instant complaint on May 24, 2018.
4. On May 31, 2018, the summons and Plaintiff's complaint were served on defendant Carmela Morelli by personal service as provided by Rule 4(c)(2). See Exhibit A, proof of service upon defendant Carmela Morelli.
5. On May 31, 2018, the summons and Plaintiff's complaint were served on defendant Capital Advances LLC, c/o Carmela Morelli, as Registered Agent and person authorized to accept service. See Exhibit B, proof of service upon Capital Advances LLC
6. As further proof of service, the process server, Kameron Marshall, took a picture of the defendants when they were served on May 31, 2018. See Exhibit C.
7. The clerk entered default against defendants Capital Advances LLC and Carmela Morelli on July 2, 2018.
8. As of this date, at least thirty-six (36) days have elapsed since the defendants in this action were served, and the defendants have failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure.
9. I have not heard from the Defendants whatsoever. Defendants have not sought additional time within which to respond.
10. My cellular telephone number that was called in connection with this lawsuit, (484) 626-3942, is the only cellular telephone I own.

**11.** My number, (484) 626-3942, has been on the National Do-Not-Call Registry since June 26, 2015. See Exhibit D, an e-mail I received from the FTC confirming that my number is registered on the Do-Not-Call Registry.

**12.** I received four (4) “robocalls” made using an automatic telephone dialing system from defendants and one “sales text message” made by defendants, all without my prior express written consent.

**13.** I have never done any business with the defendants previously.

**14.** I had never provided my telephone number to defendants prior to receiving the initial telemarketing calls.

**15.** Despite the fact that I told defendants to stop calling repeatedly, both verbally and in writing, defendants continued to place harassing and annoying calls to my cell phone to attempt to sell me a business loan. See Exhibit E, an e-mail sent to defendants on February 24, 2018.

**16.** Despite repeated requests, defendants failed to place my number on their internal “Do-Not-Call list”, and never provided me with a copy of defendant’s “Do-Not-Call policy”.

**17.** My claim is for the sum of \$22,500, together with the costs of this action. The damages requested are statutory in nature and are summarized as follows:

a. Four calls made using an automatic telephone dialing system (ATDS) in violation of 47 U.S.C. § 227(b)(1)(A), which carries a minimum statutory penalty of \$500 per call pursuant to 47 U.S.C. § 227 (b)(3)(B), which are trebled pursuant to 47 U.S.C. § 227(b)(3).

b. Four “sales calls” and one “sales text message” to a number on the National Do-Not-Call registry in violation of 47 U.S.C. § 227(c)(3)(F), and 47 C.F.R. 64.1200(0)(2), which carries a minimum statutory penalty of \$500 per call pursuant to 47 U.S.C. § 227(c)(5)(B), which are trebled pursuant to 47 U.S.C. § 227(c)(5).



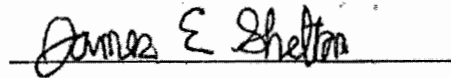
c. Four refusals to put Plaintiff's number on defendant's "do not call list" in violation of 47 C.F.R. 64.1200(d)(3), which carries a minimum statutory penalty of \$500 per call pursuant to 47 U.S.C. § 227(c)(5)(B), which is trebled pursuant to 47 U.S.C. 227(c)(5).

d. One refusal to provide Plaintiff a copy of defendant's "do not call policy" in violation of 47 C.F.R. 64.1200(d)(1), which carries a minimum statutory penalty of \$500 per violation pursuant to 47 U.S.C. § 227(c)(5)(B), which is trebled pursuant to 47 U.S.C. § 227(c)(5).

e. Therefore, Plaintiff seeks **\$22,500** in total, itemized as follows: **\$6,000** for Count (a), **\$7,500** for Count (b), **\$6,000** for Count (c), and **\$1,500** for count (d).

18. For the foregoing reasons, Plaintiff respectfully asks the Court to enter a default judgment against the defendants CAPITAL ADVANCES LLC & CARMELA MORELLI, jointly and severally.

Dated: July 9, 2018



James Everett Shelton

## EXHIBIT A

AO 440 (Rev 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:18-cv-02186

## PROOF OF SERVICE

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* CARMELA MORELLI  
 was received by me on *(date)* 05/25/2018

☒ I personally served the summons on the individual at *(place)* 4042 Loring St, Philadelphia, PA 19136  
 on *(date)* 05/31/2018 ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*:

My fees are \$ 25.00 for travel and \$ 25.00 for services, for a total of \$ 50.00

I declare under penalty of perjury that this information is true.

Date: 05/31/2018

  
 Server's signature

KAMERON MARSHALL, Process Server  
 Printed name and title

199 W. Chew Ave,  
 Philadelphia, PA 19120

Server's address

## Additional information regarding attempted service, etc:

Served Carmela Morelli, individually at 4:55 PM on May 31, 2018, at 4042 Loring St, Philadelphia, PA 19136. Subject identified herself as Carmela Morelli. She was wearing red pants, a grey t-shirt, and a dark blue zippered Temple University Hospital jacket, and has red colored hair. Approximately 35 years old, ~ 180 pounds.

Ms. Morelli asked what she needed to do and seemed confused. I informed her she needed to contact an attorney. Ms. Morelli then gave me the middle finger and became agitated; I left.



## EXHIBIT B

AO 440 (Rev 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 2:18-cv-02186

## PROOF OF SERVICE

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* CAPITAL ADVANCES LLC  
 was received by me on *(date)* 05/25/2018.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☒ I served the summons on *(name of individual)* CARMELA MORELLI, who is  
 designated by law to accept service of process on behalf of *(name of organization)* CAPITAL ADVANCES LLC  
 on *(date)* 05/31/2018; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)* \_\_\_\_\_.

My fees are \$ 25.00 for travel and \$ 25.00 for services, for a total of \$ 50.00.

I declare under penalty of perjury that this information is true.

Date: 05/31/2018

  
 \_\_\_\_\_  
 Server's signature

KAMERON MARSHALL, Process Server  
 \_\_\_\_\_  
 Printed name and title

199 W. Chew Ave,  
Philadelphia, PA 19120  
 \_\_\_\_\_  
 Server's address

## Additional information regarding attempted service, etc:

Served Carmela Morelli, Registered Agent, on behalf of Capital Advances LLC at 4:55 PM on May 31, 2018, at 4042 Loring St, Philadelphia, PA 19136.

Subject identified herself as Carmela Morelli. She was wearing red pants, a grey t-shirt, and a dark blue zippered Temple University Hospital jacket, and has red colored hair. Approximately 35 years old, ~ 180 pounds.

Ms. Morelli asked what she needed to do and seemed confused. I informed her she needed to contact an attorney. Ms. Morelli then gave me the middle finger and became agitated; I left.







## EXHIBIT D

Subject ^\_National^\_ ^\_Do^\_ Not ^\_Call^\_ Registry - Your Registration Is Confirmed

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From Verify@DonotCall.gov

To. jamieshelton66@yahoo.com

Date. Monday, July 25, 2016, 12:07:09 PM EDT

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Thank you for registering your phone number with the National Do Not Call Registry. You successfully registered your phone number ending in 3942 on June 26, 2015. Most telemarketers will be required to stop calling you 31 days from your registration date.

Visit <https://www.donotcall.gov> to register another number or file a complaint against someone violating the Registry.

\*\*\*\*\*

Please do not reply to this message as it is from an unattended mailbox. Any replies to this email will not be responded to or forwarded. This service is used for outgoing emails only and cannot respond to inquiries.





## Exhibit E

Jamie Shelton &lt;jeshelton595@gmail.com&gt;

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**Telemarketing Violations**

1 message

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Jamie Shelton <jeshelton595@gmail.com>

Sat, Feb 24, 2018 at 2:56 PM

To: jim@capitaladvances.com, vincent@capitaladvances.com, carmella@capitaladvances.com

Dear Sir/Madam,

My name is James Shelton. I write to bring to your attention a telemarketing concern of mine. On February 23, 2018, I received two telemarketing calls to my cell phone and one unsolicited text message. I was connected with an agent, Jim. The agent hung up and called back (without my permission), and subsequently sent a text message to me (again without my permission). I did not provide my consent to your company to make telemarketing calls or text messages to me. My telephone number, 484-626- 3942, is on the National Do Not Call List. It is my understanding that according to the Telephone Consumer Protection Act ("TCPA"), it is illegal to make marketing calls to someone on the Federal Do Not Call List without first obtaining the express consent of the recipient. Furthermore, the calls were made using an automatic telephone dialing system (ATDS).

Please forward to my attention all documents that evidence any purported consent to receive telemarketing calls from your company, as well as any other documents that support a claim that there is no relationship between the company that made the calls and your company, if that's your claim. Additionally, please immediately place my number 484-626-3942 on your Do-Not-Call list and provide me with a copy of your Do-Not-Call policy. Before I proceed with a formal claim, I wanted to give you the opportunity to explain your actions. Please forward this information to my attention by e-mail (jeshelton595@gmail.com) or a USPS letter by March 2, 2018.

Very truly yours,

James E. Shelton  
316 Covered Bridge Road  
King of Prussia, PA 19406